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OFFICE OF PETITIONS

In re Application of	:	
Dillon, David	:	DECISION ON PETITION
Application No. 10/578,037	:	TO MAKE SPECIAL
Filed: May 2, 2006	:	37 CFR 1.102(c)
Attorney Docket No. 16698.11.18	:	

This is a decision on the renewed petition under 37 CFR 1.102(c)(2)(iii), filed October 18, 2006, to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(iii) and MPEP § 708.02, Section XI: Inventions for Countering Terrorism, should state that special status is sought because the invention materially contributes to countering terrorism. International terrorism as defined in 18 U.S.C. 2331 includes:

activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping...

If the disclosure is not clear on its face that the claimed invention is materially directed to countering terrorism, the petition must be accompanied by a statement by the applicant, assignee or a registered attorney/agent explaining how the materiality standard is met. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. No fee is required.

The USPTO's final rule amending 37 CFR 1.102(c)(2) states:

The materially standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could counter terrorism. Nor does such standard permit an applicant to enjoy the benefit of advance examination merely because some minor aspect of the claimed invention may be directed to countering terrorism...[Response to Comment 65] applicants should not expect to have

their petitions granted without a clear demonstration that the claimed invention is materially related to countering terrorism. 69 Fed. Reg. 56511 (Sept. 21, 2004)

The publications submitted with the instant application as evidence that the claimed invention counters terrorism include speculative statements, such as, "intellectual property crime is becoming the preferred method of funding for a number of terrorist groups," and "growing evidence that terrorist groups sometimes fund their activities using the proceeds." As stated above, the materially standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could counter terrorism. No evidence supporting the above statements has been included. The contribution of petitioner's invention does not rise to the level intended by the Rule.

Further correspondence with respect to this matter should be addressed as follows:


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Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Walsh at 571-272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3627 for action in its regular turn.


David Pucci
Petitions Examiner
Office of Petitions